

1 Hon. Fred Van Sickle

2 Liebler, Ivey, Conner, Berry & St. Hilaire

By: Floyd E. Ivey

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*Jeffrey Goldstein, Phillip Huston and Kenneth Adamson*

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11 **IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF WASHINGTON**  
12 **AT RICHLAND**

13 James S. Gordon, Jr.,

14 Plaintiff,

15 v.

16 Impulse Marketing Group, Inc.,  
Jeffrey Goldstein, Phillip Huston,  
and Kenneth Adamson,

17 Defendants.

Case No.: CV-04-5125-FVS

[PROPOSED] ORDER DISMISSING  
PLAINTIFF'S AMENDED FIRST  
AMENDED COMPLAINT AND TO  
STRIKE PLAINTIFF'S MORE  
DEFINITE STATEMENT

19 Impulse Marketing Group, Inc.,

20 Third-Party Plaintiff,

21 v.

22 Bonnie F. Gordon, Jamila Gordon,  
James Gordon, III, and Jonathan  
Gordon,

23 Third-Party Defendants.

24  
25 THIS MATTER comes before the Court on the Motion to Dismiss the  
26 Amended First Amended Complaint and to Strike the More Definite Statement under

27 PROPOSED ORDER, DEFENDANTS' MOTION  
TO DISMISS THE AMENDED FIRST AMENDED COMPLAINT  
AND TO STRIKE THE MORE DEFINITE STATEMENT - 1  
28 00084859;1

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1 Fed. R. Civ. 12(b)(1), (2) and (6), 12(e), 41(b) and 12(f) filed by Defendants. The Court  
2 hereby finds as follows:

3 Defendants' Motion to Dismiss Pursuant to 41(b):

4 1. The Plaintiff failed to comply with this Court's order denying his request  
5 to add new plaintiffs to the action.

6 2. The Plaintiff failed to comply with Fed. R. Civ. P. 15 by filing the Second  
7 Amended Complaint without leave of Court or consent of the parties.

8 3. The Plaintiff failed to comply with Fed. R. Civ. P. 12(e) by filing his More  
9 Definite Statement nearly one (1) month late and as a separate document without  
10 reference to the Amended First Amended Complaint.

11 4. The Plaintiff failed to comply with the Court's order requiring him to  
12 provide a more definite statement that does not properly address issues raised in the  
13 Court's order.

14 5. The Plaintiff failed to comply with the Court's order to pay sanctions to  
15 Defendants in the amount of One Thousand Five Hundred (\$1,500).

16 Defendants' Motion to Dismiss Pursuant to 12(e):

17 6. The Plaintiff failed to provide a more definite statement within the time  
18 limits prescribed by Fed. R. Civ. P. 12(e).

19 7. The Plaintiff failed to provide an adequate more definite statement that  
20 referenced allegations contained in the underlying pleading.

21 Defendants' Motion to Dismiss Pursuant to 12(b)(1), (2) and (6):

22 8. The Plaintiff lacks standing to assert any causes of action on behalf of  
23 unregistered d/b/a Gordonworks.com.

24 9. The Plaintiff, an individual, lacks standing to assert the matters  
25 complained of in his First Cause of Action.

1        10. The Plaintiff, an individual, is neither an “interactive computer service” as  
2 defined in RCW § 19.190, *et seq.*, nor an “internet access service” as defined in 15  
3 U.S.C. § 7701, *et seq.*, and therefore lacks standing as an interactive computer service or  
4 internet access service to assert the matters complained of in his First and Second  
5 Causes of Action.

6        11. After due deliberation his Court has determined that it lacks jurisdiction  
7 over the persons of Jeffrey Goldstein, Kenneth Adamson and Phillip Huston.

8        12. After due deliberation, this Court has determined that the First Amended  
9 Complaint fails to state a claim on which relief may be granted.

10 Defendants’ Motion to Strike Pursuant to 12(f):

11        13. The Plaintiff’s More Definite Statement is an inadequate response to the  
12 Court’s order.

13        14. The Plaintiff’s More Definite Statement was not filed within the time  
14 limits prescribed by Fed. R. Civ. P. 12(e).

15        15. The Plaintiff’s More Definite Statement contained impertinent and  
16 immaterial accusations and redundant statutory quotations.

17  
18 WHEREFORE, it is hereby ORDERED that:

- 19        a. The motion to dismiss the Amended First Amended Complaint is  
20 GRANTED.  
21        b. The motion to strike the More Definite Statement is GRANTED.  
22        c. The clerk will enter a judgment dismissing this action with prejudice and  
23 awarding Defendant his costs.

1 DATED this \_\_\_\_ day of \_\_\_\_\_, 2007.

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3 Hon. Fred Van Sickle  
4 United States District Court Judge  
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27 PROPOSED ORDER, DEFENDANTS' MOTION  
28 TO DISMISS THE AMENDED FIRST AMENDED COMPLAINT  
AND TO STRIKE THE MORE DEFINITE STATEMENT - 4  
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